



TERRY E. BRANSTAD, GOVERNOR

IOWA UTILITIES BOARD  
DEPARTMENT OF COMMERCE

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May 15, 1996

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FCB MAIL ROOM

Mr. William F. Caton, Acting Secretary  
Federal Communications Commission  
Room 222, 1919 M Street NW  
MS 1170  
Washington, DC 20554

RE: Implementation of the Local Competition Provisions in the  
Telecommunications Act of 1996, CC Docket No. 96-98

Dear Mr. Caton:

Enclosed for filing in the above docket are an original and twelve copies of the  
"Initial Comments of the Iowa Utilities Board." Two of the copies are annotated as  
"Extra Public Copy."

Please stamp one of the enclosed copies, and return it in the enclosed postage-  
paid envelope.

Sincerely,

*William H. Smith, Jr.*  
William H. Smith, Jr. *by kb*  
Chief  
Bureau of Rate & Safety Evaluation

Enclosures

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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MAY 16 1996

FCC MAIL ROOM

In the Matter of

Implementation of the Local Competition  
Provisions in the Telecommunications Act  
of 1996

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CC Docket No. 96-98

**INITIAL COMMENTS  
OF THE IOWA UTILITIES BOARD**

The Iowa Utilities Board (Board) offers the following comments on the proposed rules.

**OVERVIEW**

The passage of the 1996 Act sparked a new sense of shared cooperative enthusiasm among federal and state regulators. That spirit permeated the first rulemakings under the new Act. In this notice, the FCC unexpectedly reverts to a déjà vu pattern of exclusionary and preemptive federalism we hoped had ended.

Our strong advice to the FCC is to avoid creating enemies where they do not exist. A rulemaking along highly preemptive lines is sure to result in the cost and delay of unnecessary litigation at a time when no regulatory agency can afford to spend its resources in that way. The FCC would be wise to swiftly issue

the minimum rules required by the Act. Those barebones rules can be refined and embellished without a Congressional deadline if and when actual problems begin to emerge. In that way, the rules will be tuned to real issues rather than theoretical possibilities.

### **PROHIBITION OF PRESCRIPTIVE NATIONAL RULES**

The Federal Communications Commission's (Commission) Notice of Proposed Rulemaking released on April 19, 1996, as CC Docket No. 96-98 is permeated with tentative conclusions that the Commission should adopt explicit national rules to implement § 251 of the Telecommunications Act of 1996 (the Act). The Iowa Utilities Board (Board) urges the Commission to reconsider those tentative conclusions as contrary to the Act in most instances and, even more importantly, as unsound policy.

The Congressional intent to reserve to the states the decisions concerning the details of local service competition is seen most clearly in § 251(d)(3) of the Act, which provides:

(3) **PRESERVATION OF STATE ACCESS REGULATIONS.**-- In prescribing and enforcing regulations to implement the requirements of this section, the Commission shall not preclude the enforcement of any regulation, order, or policy of a State commission that--

- (A) establishes access and interconnection obligations of local exchange carriers;
- (B) is consistent with the requirements of this section;

and

- (C) does not substantially prevent implementation of the requirements of this section and the purposes of this part.

Paragraph (3) prohibits the Commission from preempting state access and interconnection regulations, orders, or policies that are consistent with § 251 and that do not substantially prevent implementation of § 251 or the purposes of part II--"Development of Competitive Markets".

### **IOWA'S PROGRESS ON INTERCONNECTION ADVANCES CONGRESSIONAL INTENT**

In Iowa, as in a number of other states, we are at least three years into the process of introducing local service competition. 1995 Iowa Acts, House File 518 (codified at Iowa Code §476.95 *et seq.*, attached as Appendix A), established a state policy, effective July 1, 1995, of encouraging competition in the local service market. Section 11 of H.F. 518 contains a list of prohibited acts of an anticompetitive nature that local exchange carriers must not do. Section 12 contains additional provisions necessary to create the conditions for local service competition, including the requirement that the Board initiate a rulemaking prior to September 1, 1995, on four topics:

- unbundling essential network facilities,
- reciprocal cost-based compensation for termination of local calls,
- interim and provider (permanent) number portability, and
- appropriate cost methodology for a competitive environment.

The Board in Docket No. RMU-95-5, on April 5, 1996, adopted local service competition rules on number portability, unbundling, and cost standards.

(copy attached as Appendix B). In the same order it also renoticed rules on reciprocal compensation for the termination of local calls. The rules adopted and renoticed are consistent with the Act. As required by IOWA CODE § 476.101(4)"a"(1) (1995 Iowa Supp.), on or before July 6, 1996,. local exchange carriers U S West Communications, Inc. and GTE Midwest Incorporated must file tariffs for twelve types of unbundled essential facilities listed in the new unbundling rules.

Iowa's 1995 legislation also requires reasonable and nondiscriminatory access to and interconnection with essential network facilities on reasonable, cost-based, and tariffed terms and conditions. Those terms and conditions are to be no less favorable than those the LEC provides to itself for local exchange, access, and toll service. Iowa Code §476.101(4)(a)(1).

As a result of a 1995 contested case, U S West was ordered by the Board to file local service interconnection tariffs. Docket No. TCU-94-4. As these comments are being prepared, a final Board order is being drafted to conclude a ten-month proceeding to review U S West's local service interconnection tariffs. Docket No. RPU-95-10. Every major player currently identified in Iowa participated fully in that docket. The Board has made every effort to assure that the decisions in the docket are consistent with the Act.

Prescriptive national access and interconnection rules would upset three years of careful, detailed work toward competition in Iowa. Such rules, simply put, would do to Iowa precisely what § 251(d)(3) prohibits.

### **PRESCRIPTIVE FEDERAL RULES ARE LIMITED BY THE ACT**

The enforcement by the Commission of detailed, prescriptive national rules, unless the rules mirror the regulations, orders, and policies of all the state commissions, would violate the prohibition in § 251(d)(3). Where the Commission's rules do not mirror state rules, the rules may be prescriptive only to the extent that they prohibit state policies that are inconsistent with § 251 or policies that substantially prevent implementation of the requirements of § 251 or the purposes of part II. The Board insists that the Commission rules must stay within the State/Federal division of authority to set policy on local service competition established by Congress.

This analysis is consistent with § 252(e)(3), which provides:

(3) PRESERVATION OF AUTHORITY.--Notwithstanding paragraph (2), but subject to section 253, nothing in this section shall prohibit a State commission from establishing or enforcing other requirements of State law in its review of an agreement, including requiring compliance with intrastate telecommunications service quality standards or requirements

Under this provision and similar language in § 252(f)(2), the State commissions retain the authority to establish and enforce other requirements of State law for use in reviewing interconnection agreements and Bell company statements of terms and conditions, as long as those State law requirements do not serve as a barrier to market entry for any telecommunications service.

Further support for the Board's position on the State/Federal division of authority is found at §§ 253(b) and (d) (removal of barriers), at § 254(f) (universal

service), and, at § 256(c) (coordination for interconnectivity). It is particularly telling that the Congress has chosen to put explicit antipreemptive language in five of the first six sections of the Act . A preemption order such as that discussed in paragraph 188 of the NPRM, requiring that rates for local service exceed the cost of providing that service, would be well beyond the authority granted to the Commission.

The Board does not believe it is a mere oversight that the Commission cited no statutory authority in paragraph 39 for its tentative conclusion that Congress intended § 251 to take precedence over any contrary implications in § 152(b) of the 1934 Act, which reserves jurisdiction over intrastate communications services to the States. There is no statutory basis for the Commission's tentative conclusion and, in fact, the Act repeatedly indicates the contrary by stating that the authority of the State commissions over intrastate communication services is preserved. Local exchange service is, after all, predominantly intrastate in nature.

NPRM paragraphs 117-123, 134-143, 178, and 234-243 propose explicit preemptive pricing standards for interconnection, collocation, and unbundled network elements; for wholesale services; and for transport and termination. Having taken the view that the provisions of Section 252 are directive to states and contain adequate standards, the Board suggests the rules proposed in these paragraphs are unnecessary, pose confusing and duplicative standards, and should not be pursued.

There are several corollaries to this point. First, if such rules are adopted, their wording is of great importance. The Board believes the actual rule text should be exposed to public comment before adoption. The statutory deadline will make it difficult to provide for the level of comment that would satisfy the Administrative Procedures Act. Second, the strong probability of a judicial challenge to the jurisdictional basis for these proposed rules will delay, rather than advance, the ultimate goal of realizing local exchange competition. The Board suggests that because these proposed rules are not required by the 1996 Act, the FCC's wisest course of action is to not enact these portions of the proposed rules. Experience will be helpful in determining the need for and framing proposals responsive to actual needs. An additional advantage of this approach is that it avoids committing scarce agency resources to matters that are of doubtful immediacy.

In Paragraph 265, the FCC asks whether it should set rules for the situation in which a state fails to act on an arbitration. As stated above, the Board believes this issue need not be dealt with in this proceeding.

The Board also doubts that failure to adopt explicit federal technical requirements would delay completion of arbitrations within the statutory time period, nor would it complicate the FCC's task if it needs to assume state commission responsibilities. In the Board's view, it is unlikely that states will fail to meet their responsibilities. The FCC could return to this issue if experience suggests a need.



## **OPTIMAL APPROACH TO COMMISSION RULES**

The Commission is now deeply immersed in the local competition issues that the states have struggled with for a number of years. These issues involve the clash of opposing interests among incumbents, potential entrants of many varieties, and the customers for local service. There is wide-spread recognition that regulators have a crucial role to play in establishing the conditions where economic competition can become common in necessarily interconnected telecommunications markets. The Act changes the way regulators approach this set of issues. Congress mandated local competition for the entire country and gave the Commission a degree of joint responsibility with the State commissions to implement it. The Board wishes to share with the Commission its experience in dealing with local competition issues over the past few years.

One question the Board has faced has been whether to set policy in this area by rulemaking or by contested case. Rulemaking has the advantage of establishing rules of general applicability, thereby placing every player under a single set of regulations. However, even in a marketplace the size of Iowa, the Board has learned it is often impossible to write a rule that accommodates the diversity of interests on many of these competition issues. This problem will be multiplied if the Commission attempts to implement specific, technical rules to apply to local service competition throughout the nation. Rulemaking has the further disadvantage of often producing a woefully inadequate factual record upon which to base policy in technical areas. While contested cases may also

produce deficient records at times, contested case records generally are superior to rulemaking records for setting technical policy.

The Board believes the optimal approach for the Commission to follow in this rulemaking is suggested in paragraph 64 of the NPRM. After a discussion of the interplay between §§ 251(c)(2) and 251(c)(6), the Commission reaches a tentative conclusion that the Commission may require in addition to physical collocation, virtual collocation, meet point interconnection arrangements, as well as any other reasonable method of interconnection. A rule preserving these options would be the best choice. There is no way that the Commission or any State commission can foresee which one of these possibilities will work best for diverse potential entrants and incumbent carriers. The national rules must require interconnection pursuant to §§ 251(c)(2) and (c)(6), but those rules should not cut off modes of interconnection that may be potentially superior for certain interconnecting carriers. To the extent consistent with sound network design, the rules should expand the technical solutions possible, rather than foreclosing certain technical solutions. The details can then be worked out in some combination of § 252 proceedings, State tariff proceedings, or in State commission rulemakings. With the possible exception of negotiated agreements (See § 252(e)(2)(A)), in general the Act requires the detailed decisions made at the State level to be consistent with §§ 251 and 252(d).

**SECTION 252 IS NOT THE EXCLUSIVE PROCEDURE  
FOR SETTING THE TERMS AND CONDITIONS FOR  
INTERCONNECTION, UNBUNDLING, AND RESALE ARRANGEMENTS**

Throughout the NPRM, the Commission appears to take the attitude that § 252 interutility negotiations and review of Bell company statements of terms and conditions provide the exclusive procedures for setting the terms and conditions for interconnection, unbundling, and resale arrangements. Perhaps the clearest statement showing this attitude is in paragraph 18 which provides: "Section 252 sets forth the procedures that incumbent LECs and new entrants must follow to transform the requirements of section 251 into binding contractual obligations." Section 252 contains no statement that its procedures are exclusive. Sections 251(d)(3) (preserves State access regulations), 252(d)(1)-(3) (State ratemaking for interconnection, unbundling, termination, transport, and resale), and 252(e)(3) (allows establishing or enforcing other requirements of State law in review of agreements) explicitly acknowledge the role of State regulations, orders, and policies implemented in contexts other than the negotiation/mediation/ arbitration/review process in § 252.

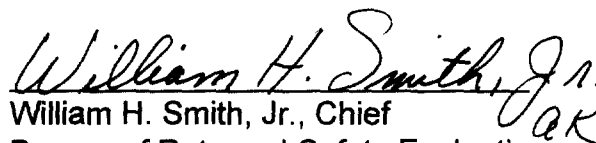
We have earlier described the major activities completed to date by the Board relating to local service competition. Several other contested case, investigation, and rulemaking dockets are also currently pending before the Board that directly involve local competition issues. In most instances, these proceedings address local competition issues tailored to fit the players, regulatory climate, history, geography, and economy of Iowa.

It is critically important that the Commission acknowledge that the Act provides that government will set local competition policy through a variety of means including State commission-approved agreements between carriers; State statutes, rules, and orders; the Act; and Commission rules broadly implementing the Act. Commission rules that foreclose any of those means would be a mistake that would severely slow the progress of local service competition. In particular, it is important to the development of competition that State rulemakings, tariff proceedings, and competition complaint proceedings, such as those well under way in Iowa, continue without the specter of unlawfully prescriptive Commission rules.

## CONCLUSION

The Iowa Utilities Board urges the Commission to adopt minimally preemptive and minimally prescriptive final rules, recognizing the progress state commissions have made toward effective competition.

Respectfully submitted,

AK

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Iowa Utilities Board - on NT  
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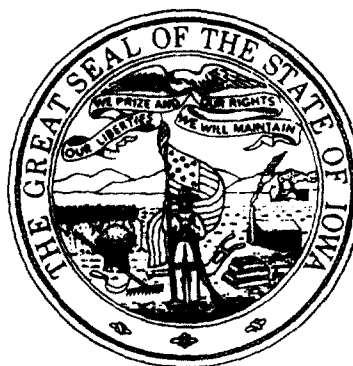
APPENDIX A

# 1995 IOWA CODE SUPPLEMENT

Containing

Sections of the Laws of Iowa  
of a General and Permanent Nature  
Enacted, Amended, Repealed or  
otherwise affected by the  
1995 Regular Session  
of the

GENERAL ASSEMBLY OF THE  
STATE OF IOWA



Published under the authority of Iowa Code chapter 2B  
by the  
Legislative Service Bureau  
GENERAL ASSEMBLY OF IOWA  
Des Moines  
1995

4. Each certificate shall define the service territory in which land-line local telephone service will be provided. The service territory shall be shown on maps and other documentation as the board may require to be filed with the board. The board shall, by rule, specify the style, size, and kind of map or other documentation, and the information to be shown.

5. Each local exchange utility has an obligation to serve all eligible customers within the utility's service territory, unless explicitly excepted from this requirement by the board.

6. The certificate and tariffs approved by the board are the only authority required for the utility to furnish land-line local telephone service. However, to the extent not inconsistent with this section, the power to regulate the conditions required and manner of use of the highways, streets, rights-of-way, and public grounds remains in the appropriate public authority.

7. The inclusion of any facilities or service territory of a local exchange utility within the boundaries of a city does not impair or affect the rights of the utility to provide land-line local telephone service in the utility's service territory.

8. An agreement between local exchange utilities to designate service territory boundaries and customers to be served by the utilities, or for exchange of customers between utilities, when approved by the board after notice to affected persons and opportunity for hearing, is valid and enforceable and shall be incorporated into the appropriate certificates. The board shall approve an agreement if the board finds the agreement will result in adequate service to all areas and customers affected and is in the public interest.

9. A certificate may, after notice and opportunity for hearing, be revoked by the board for failure of a utility to furnish reasonably adequate telephone service and facilities. The board may also order a revocation affecting less than the entire service territory, or may place appropriate conditions on a utility to ensure reasonably adequate telephone service. Prior to revocation proceedings, the board shall notify the utility of any inadequacies in its service and facilities and allow the utility a reasonable time to eliminate the inadequacies.

10. In the event that eighty percent or more of the subscribers in a community served by a local exchange utility sign a petition indicating they are adversely affected by school reorganization or economic dislocation and prefer to have their local telephone service provided by a different local exchange utility and file that petition with the board, the board, after notice and opportunity for hearing, shall determine whether the certificate held by the local exchange utility shall be revoked or conditioned as provided in subsection 9.

11. The board shall assure that all territory in the state is served by a local exchange utility. If at any time revocation proceedings, disapproval proceedings, or any other reorganization proceedings, a particular territory may not be

served by any local exchange utility, the board may, after notice to interested persons and opportunity for hearing, include all or part of the territory in the certificate of another local exchange utility or utilities. In determining the local exchange utility or utilities to be authorized or required to serve, the board shall consider the willingness and ability of the utilities to serve, the location of existing service facilities, the community of interest of the customers involved, and any other factors deemed relevant to the public interest.

12. The board, on or prior to September 30, 1992, shall issue to each local exchange utility in the state, without a contested case proceeding, a nonexclusive certificate to serve the area included within the utility's service territory boundaries as shown by the service territory boundary maps on record with the board on January 1, 1992. The board shall adopt rules pursuant to chapter 17A to implement the issuance of certificates.

a. A customer served by a local exchange utility, but outside the service territory of that utility when the utility's certificate is issued, shall continue to be served by that utility for as long as that customer remains eligible to receive and requests service.

b. If more than one utility has on file maps indicating service in the same territory, the board shall request the involved utilities to resolve the overlap. If the overlap is not resolved in a reasonable time, the board, after notice to interested persons and opportunity for hearing, shall determine the boundary, taking into consideration the criteria listed in subsection 11.

13. Reserved.

14. This section does not prevent the board from adopting rules requiring or allowing local exchange utilities to provide extended area service or adjacent exchange service.

15. The board shall provide a written report to the general assembly no later than January 20, 2005, describing the current status of local telephone service in this state. The report shall include at a minimum the number of certificates of convenience issued, the number of current providers of local telephone service, and any other information deemed appropriate by the board.

92 Acts, ch 1058, §2; 95 Acts, ch 199, §5

Subsection 2 amended

Subsection 13 stricken effective July 1, 1995, as provided in 92 Acts, ch 1058, §2

**476.92 through 476.94 Reserved.**

#### PRICE REGULATION FOR TELECOMMUNICATIONS SERVICES PROVIDERS

##### **476.95 Findings — statement of policy.**

The general assembly finds all of the following:

1. Communications services should be available throughout the state at just, reasonable, and affordable rates from a variety of providers.

2. In rendering decisions with respect to regulation of telecommunications companies, the board

board may, opportunity for entry in the industry or utility or serve, the ability of the service for customers relevant to

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shall consider the effects of its decisions on competition in telecommunications markets and, to the extent reasonable and lawful, shall act to further the development of competition in those markets.

3. In order to encourage competition for all telecommunications services, the board should address issues relating to the movement of prices toward cost and the removal of subsidies in the existing price structure of the incumbent local exchange carrier.

4. Regulatory flexibility is appropriate when competition provides customers with competitive choices in the variety, quality, and pricing of communications services, and when consistent with consumer protection and other relevant public interests.

5. The board should respond with speed and flexibility to changes in the communications industry.

6. Economic development can be fostered by the existence of advanced communications networks.

95 Acts, ch 199, §6  
NEW section

#### 476.96 Definitions.

As used in section 476.95, this section, and sections 476.97 through 476.102, unless the context otherwise requires:

1. "Basic communications service" includes at a minimum, basic local telephone service, switched access, 911 and E-911 services, and dual party relay service. The board is authorized to classify by rule at any time, any other two-way switched communications services as basic communications services consistent with community expectations and the public interest.

2. "Basic local telephone service" means the provision of dial tone access and usage, for the transmission of two-way switched communications within a local exchange area, including, but not limited to, the following:

a. Residence service and business services, including flat rate or local measured service, private branch exchange trunks, trunk type hunting services, direct inward dialing, and the network access portion of central office switched exchange service.

b. Extended area service.

c. Touch tone service when provided separately.

d. Call tracing.

e. Calling number blocking on either a per call or a per line basis.

f. Local exchange white pages directories.

g. Installation and repair of local network access.

h. Local operator services, excluding directory assistance.

i. Toll service blocking and 1-900 and 1-976 access blocking.

3. "Competitive local exchange service provider" means any person that provides local exchange services, other than a local exchange carrier or a nonrate-regulated wireline provider of local exchange services under an authorized certificate of public convenience and necessity within a specific geographic area described in maps filed with and approved by the board as of September 30, 1992.

4. "Interim number portability" means one or more mechanisms by which a local exchange customer at a particular location may change the customer's local exchange services provider without any change in the local exchange customer's telephone number, while experiencing as little loss of functionality as is feasible using available technology.

5. "Local exchange carrier" means any person that was the incumbent and historical rate-regulated wireline provider of local exchange services or any successor to such person that provides local exchange services under an authorized certificate of public convenience and necessity within a specific geographic area described in maps filed with and approved by the board as of September 30, 1992.

6. "Nonbasic communications services" means all communications services subject to the board's jurisdiction which are not deemed either by statute or by rule to be basic communications services, including any service offered by the local exchange carrier for the first time after July 1, 1995. A service is not considered new if it constitutes the bundling, unbundling, or repricing of an already existing service. Consistent with community expectations and the public interest, the board may reclassify by rule as nonbasic those two-way switched communications services previously classified by rule as basic.

7. "Provider number portability" means the capability of a local exchange customer to change the customer's local exchange services provider at the customer's same location without any change in the local exchange customer's telephone number, while preserving the full range of functionality that the customer currently experiences. "Provider number portability" includes the equal availability of information concerning the local exchange provider serving the number to all carriers, and the ability to deliver traffic directly to that provider without having first to route traffic to the local exchange carrier or otherwise use the services, facilities, or capabilities of the local exchange carrier to complete the call, and without the dialing of additional digits or access codes.

95 Acts, ch 199, §7  
NEW section

#### 476.97 Price regulation.

1. Notwithstanding contrary provisions of this chapter relating to rate regulation, the board may approve a plan for price regulation submitted by a rate-regulated local exchange carrier. The plan for price regulation is not effective until the approval by the board of tariffs implementing the unbundling of essential facilities pursuant to section 476.101, subsection 4, except for a local exchange carrier with less than seventy-five thousand access lines whose plan for price regulation will be effective concurrent with the approval of its plan. The board may approve a plan for price regulation prior to the adoption of rules related to the unbundling of essential facilities or concurrent with a rate proceeding under section 476.3, 476.6, or 476.7. During the term of the plan,



the board shall regulate the prices of the local exchange carrier's basic and nonbasic communications services pursuant to the requirements of the price regulation plan approved by the board. The local exchange carrier shall not be subject to rate of return regulation during the term of the plan.

2. The board, after notice and opportunity for hearing, may approve, modify, or reject the plan. The local exchange carrier shall have ten days to accept or reject any board modifications to its plan. If the local exchange carrier rejects a modification to its plan, the board shall reject the plan without prejudice to the local exchange carrier to submit another plan.

3. A price regulation plan, at a minimum, shall include provisions, consistent with the provisions of this section and any rules adopted by the board, for the following:

a. (1) Establishing and changing prices, terms, and conditions for basic communications services. The initial plan for price regulation must include a proposal, which the board shall approve, for reducing the local exchange carrier's average intrastate access service rates to the local exchange carrier's average interstate access service rates in effect as of the last day of the calendar year immediately preceding the date of filing of the plan, as follows:

(a) A local exchange carrier with five hundred thousand or more access lines in this state shall reduce its average intrastate access service rates by at least fifty percent of the difference between average intrastate access service rates and average interstate access service rates as of the date that the plan is filed and further reduce such rates to the average interstate access service rates within ninety days of the date that the plan becomes effective.

(b) A local exchange carrier with fewer than five hundred thousand but seventy-five thousand or more access lines in this state shall reduce its average intrastate access service rates to its average interstate access service rates in increments of at least twenty-five percent, with the initial reduction to take effect on approval of the plan and equal annual reductions on each anniversary of the approval during the first three years that its plan is in effect.

(c) A local exchange carrier with fewer than seventy-five thousand access lines in this state shall reduce its average intrastate access service rates to its average interstate access service rates with equal annual reductions during a period beginning no more than two years and ending no more than five years from the plan's inception.

(2) This section shall not be construed to do either of the following:

(a) Prohibit an additional decrease in a carrier's average intrastate access service rate during the term of the plan.

(b) Permit any increase in a carrier's average intrastate access service rates during the term of the plan.

(3) The plan shall also provide that the initial prices for basic communications services shall be six

percent less than the rates approved and in effect at the time the local exchange carrier files its plan. A local exchange carrier which elects to reduce its rates by six percent shall not, at a later time, increase its rates for basic communications services as a result of the carrier's compliance with the board's rules relating to unbundling. In lieu of the six percent reduction, and prior to the adoption of rules relating to unbundling pursuant to section 476.101, subsection 4, paragraph "a", subparagraph (1), the local exchange carrier may request and the board may establish a regulated revenue requirement in a rate proceeding under section 476.3 or 476.6 commenced after July 1, 1995. After the determination of the local exchange carrier's regulated revenue requirement pursuant to the rate proceeding, the local exchange carrier shall not immediately implement rates designed to recover that regulated revenue requirement. Following the adoption of rules relating to unbundling pursuant to section 476.101, subsection 4, paragraph "a", subparagraph (1), the local exchange carrier shall commence a tariff proceeding for the approval of tariffs implementing such unbundling. The board has six months to complete this tariff proceeding and determine the local exchange carrier's final unbundled rates. The local exchange carrier shall carry forward the regulated revenue requirement determined by the board pursuant to the rate proceeding and design rates that comply with the board's rules relating to unbundling that recover the regulated revenue requirement, and that implement the board's approved rate design established in the tariff proceeding.

In lieu of taking the six percent reduction, a local exchange carrier that submits a plan for price regulation after the board adopts rules relating to unbundling may file a rate proceeding under section 476.3 or 476.6 and the board may approve rates designed to comply with those rules which allow the carrier to recover the established regulated revenue requirement and that implement the board's approved rate design established in the tariff proceeding.

(4) The plan shall provide for both increases and decreases in the prices for basic communications services reflecting annual changes in inflation and productivity. Prior to January 1, 1998, the board shall use the gross domestic product price index, as published by the federal government, for an inflation measure, and two and six-tenths percentage points for a productivity measure. After January 1, 1998, the board by rule may adopt current measures of inflation and productivity.

(5) The plan may provide that price increases for basic communications services which are permitted under this section may be deferred and accumulated for a maximum of three years into a single price increase, provided that a deferred and accumulated price increase under this section shall not at any time exceed six percent. A price decrease for basic communications services shall not be deferred or accumulated, except that price decreases of less than two percent may be deferred by the local exchange carrier

for one year. A plan section may be of communications submitted under this month period, but exchange carrier.

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ed and in effect. If a carrier files its plan to reduce its rates at any time, increase its rates as a result of the board's rules relating to a three percent reduction in rates relating to unbundled services, subsection 4, paragraph 1, the local exchange carrier may establish a rate proceeding after July 1, 1998, if the local exchange carrier's plan is not approved pursuant to subsection 9. The local exchange carrier shall be designed to recover its costs. Following the filing pursuant to subsection 3, paragraph "a", subsection 1, the carrier shall comply with the approval of tariffs. The board has six months to proceed and determine the final unbundled services shall carry forward the amount determined by the board. The board's rules relating to unbundled revenue shall be approved by the board's approved tariff proceeding. If a rate reduction, a local plan for price regulation relating to unbundling under subsection 9, the board may approve rates which allow the regulated revenue to be at the board's approval of the tariff proceeding.

both increases and decreases in inflation and 1998, the board shall use the price index, as published, for an inflation of three percentage points on January 1, 1998, as the current measures of

price increases for which are permitted and accumulated into a single price and accumulated shall not at any time be deferred or accumulated for less than two years for a local exchange carrier

for one year. A price decrease required under this section may be offset by a price increase for a basic communications service that would have been permitted under this section in the previous twelve-month period, but which was deferred by the local exchange carrier.

b. Establishing and changing prices, terms, and conditions for nonbasic communications services.

c. Reporting new service offerings to the board.

d. Reflecting in rates any changes in revenues, expenses, and investment due to exogenous factors beyond the control of the local exchange carrier.

e. Providing notice to customers, the board, and the consumer advocate of changes in prices, terms, or conditions for basic and nonbasic communications services.

4. The board shall consider the extent to which a proposed plan complies with the requirements of subsection 3 and achieves the following:

a. Just, nondiscriminatory, and reasonable rates.

b. High quality, universally available communications services.

c. Encouragement of investment in communications infrastructure, efficiency improvements, and technological innovation.

d. The introduction of new communications products and services from a variety of sources.

e. Regulatory efficiency including reduction of regulatory costs and delays. A plan shall not provide for waiver of, release from, or delay in implementing the provisions of this section, section 476.101 or 476.102 or any rules adopted by the board pursuant to those sections.

5. Notwithstanding an approved plan for price regulation, the board shall continue to have regulatory authority over the following:

a. The level, extent, and timing of the unbundling of essential facilities offered by a local exchange carrier.

b. Ensuring against cross-subsidization between nonbasic communications services and basic communications services.

6. Any person, including the consumer advocate, a body politic, or the board on its own motion, may file a written complaint pursuant to section 476.3, subsection 1, regarding a local exchange carrier's implementation, operation under, or satisfaction of the purposes of its price regulation plan.

7. The consumer advocate may represent consumers before the board regarding any rule, order, or proceeding pertaining to price regulation. The consumer advocate may act as attorney for and represent consumers generally before any state or federal court concerning a board rule, order, or proceeding pertaining to price regulation.

8. In implementing price regulation, the board shall consider competitively neutral methods to assist lower-income Iowans to secure and retain telephone services.

9. The board shall determine the duration of any plan. The board shall review a local exchange carrier's operation under its plan, with notice and an

opportunity for hearing, within four years of the initiation of the plan and prior to the termination of the plan. The local exchange carrier, consumer advocate, or any person may propose, and the board may approve, any reasonable modifications to a local exchange carrier's plan as a result of the review, except that such modifications shall not require a reduction in the rates for any basic communications service.

10. The board, in determining whether to file a written complaint pursuant to subsection 6 or prior to reviewing a local exchange carrier's operation pursuant to subsection 9, may request that such carrier provide any information which the board deems necessary to make such determination or conduct such review. The carrier shall provide the requested information upon receipt of the request from the board.

11. a. Notwithstanding subsections 1 through 10, a local exchange carrier with fewer than five hundred thousand access lines in this state shall have the option to be regulated pursuant to subsections 1 through 10 or pursuant to this subsection. A local exchange carrier which elects to become price regulated under this subsection shall also be subject to subsections 5 through 8 and subsection 10 in the same manner as a local exchange carrier which operates under an approved plan of price regulation submitted pursuant to subsection 1.

b. A local exchange carrier which elects to become price regulated under this subsection shall give written notice to the board of such election not less than thirty days prior to the date such regulation is to commence.

c. Upon election of a local exchange carrier to become price-regulated under this subsection, the carrier shall reduce its rates for basic local telephone service an average of three percent. In lieu of the three percent reduction, the local exchange carrier may establish its rates for basic local telephone service in a rate proceeding under section 476.3 or 476.6 commenced after July 1, 1995.

d. Initial prices for basic communications services, other than basic local telephone service, shall be set at the rates in effect as of the first of July prior to the date such regulation is to commence.

e. (1) A price-regulated local exchange carrier shall not increase its rates for basic communications services, for a period of twelve months after electing to become price regulated. To the extent necessary, rates for basic services may be increased to carry out the purpose of any rules that may be adopted by the board relating to the terms and conditions of unbundled services and interconnection. A price-regulated local exchange carrier may increase its rates for basic communications services following the initial twelve-month period, to the extent that the change in rate does not exceed two percentage points less than the most recent annual change in the gross domestic product price index, as published by the federal government. If application of such formula achieves a negative result, prices shall be reduced so that the cumulative price change for basic services, including prior price reductions in these services,

achieves the negative result. After January 1, 2000, the board by rule may adopt different measures of inflation and productivity if they are found to be more reflective of the individual price-regulated carriers.

(2) Price increases for basic communications services which are permitted under this subsection may be deferred and accumulated for a maximum of three years into a single price increase, provided that a deferred and accumulated price increase under this subsection shall not at any time exceed six percent. A price decrease for basic communications services shall not be deferred or accumulated, except that price decreases of less than two percent may be deferred by the local exchange carrier for one year. A price decrease required under this section may be offset by a price increase for a basic communications service that would have been permitted under this section in the previous twelve-month period, but which was deferred by the local exchange carrier. A rate change pursuant to this subsection may take effect thirty days after the notification of the board and consumers.

(3) A price-regulated local exchange carrier shall not increase its aggregate revenue weighted prices for nonbasic communications services more than six percent in any twelve-month period.

(4) A price-regulated local exchange carrier may reduce the price for any basic communications service, to an amount not less than the total service long-run incremental cost for such service on one day's notice filed with the board. For purposes of this subsection, "*total service long-run incremental costs*" means the difference between the company's total cost and the total cost of the company less the applicable service, feature, or function.

(5) A price-regulated local exchange carrier may offer new service alternatives for any basic communications services on thirty days prior notice to the board, provided that the preexisting basic communications service rate structure continues to be offered to customers. New telecommunications services shall be considered nonbasic communications services as defined in section 476.96, subsection 6.

(6) A price-regulated local exchange carrier must reduce the average intrastate access service rates to the carrier's average interstate access service rates. Such carrier shall reduce the average intrastate access service rates by at least twenty-five percent of the difference of such rates within ninety days of the election to be price-regulated and twenty-five percent each of the next three years.

f. A local exchange carrier shall notify customers of a rate change under this subsection at least thirty days prior to the effective date of the rate change.

g. A local exchange carrier which elects to become price regulated under this subsection shall also be subject to the following:

(1) The local exchange carrier shall not be subject to rate-of-return regulation while operating under price regulation.

(2) All regulated services shall be provided pursuant to board-approved tariffs.

(3) All new regulated service offerings shall be reported to the board.

4. Rates may be adjusted by the board to reflect any changes in revenues, expenses, and investment due to exogenous factors beyond the control of the local exchange carrier.

h. The board may review a local exchange carrier's operation under this subsection, with notice and an opportunity for hearing, after four years of the carrier's election to be price-regulated. The local exchange carrier, consumer advocate, or any person may propose, and the board may approve, any reasonable modifications to the price-regulation requirements in this subsection as a result of the specific carrier review, except that such modifications shall not require a reduction in the rates for any basic communications service or a return to rate-base, rate-of-return regulation.

i. This subsection shall not be construed to prohibit an additional decrease or to permit any increase in a local exchange carrier's average intrastate access service rates during the term of the local exchange carrier's operation under price regulation.

95 Acts, ch 199, §8  
Report to general assembly by January 15, 1999, concerning implementation of price regulation; 95 Acts, ch 199, §14  
NEW section

#### 476.98 Earnings calculation and report.

The consumer advocate shall calculate an estimate of the return of a local exchange carrier operating under price regulation pursuant to section 476.97 as if the carrier were subject to rate-of-return regulation. The calculation shall be based upon the annual report of such carrier and other information provided to the consumer advocate by the carrier. The calculation shall be made every two years beginning following the end of the second calendar year after the year in which the plan becomes effective. The consumer advocate shall provide a written report to the general assembly including the results of this calculation on or before July 1 of the year immediately following the two-year period for which a calculation is made. If, after a review of the information used to make the calculation required in this section, the consumer advocate determines that the public interest would be better served by a different form of rate regulation, the consumer advocate shall provide a recommendation that the general assembly direct the utilities board to implement a different form of rate regulation.

95 Acts, ch 199, §9  
NEW section

#### 476.99 Additional price regulation plan provisions.

In addition to the provisions required in section 476.97, a local exchange carrier, prior to operating under price regulation, shall make provision for the following:

1. Reflecting in rates any changes due to changes in the average cost of the local exchange carrier resulting from the sale of an exchange in this state.

2. Encourage change carrier. This provision local exchange an increased  
95 Acts, ch 199, §  
NEW section

LOC

#### 476.100 F

A local exchange carrier shall follow the following:

1. Discriminate against basic communications services to the local exchange carrier.

2. Discriminate against basic communications services to essential facilities favorable than provides to itself communications facilities the local exchange carrier facility if all c

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7. Discrimi the provision a any telephone

95 Acts, ch 199, §  
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#### 476.101 L

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age in this state.

2 Encouraging modernization of the local ex-  
change carrier's telecommunications infrastructure.  
This provision shall include a requirement that the  
local exchange carrier develop and file with the board  
an increased modernization plan.

95 Acts, ch 119, §10  
NEW section

### LOCAL EXCHANGE COMPETITION

#### 476.100 Prohibited acts.

A local exchange carrier shall not do any of the following:

1. Discriminate against another provider of com-  
munications services by refusing or delaying access  
to the local exchange carrier's services.

2. Discriminate against another provider of com-  
munications services by refusing or delaying access  
to essential facilities on terms and conditions no less  
favorable than those the local exchange carrier pro-  
vides to itself and its affiliates. A local telecommu-  
nications facility, feature, function, or capability of  
the local exchange carrier's network is an essential  
facility if all of the following apply:

a. Competitors cannot practically or economi-  
cally duplicate the facility, feature, function, or ca-  
pability, or obtain the facility, feature, function, or  
capability from another source.

b. The use of the facility, feature, function, or  
capability by potential competitors is technically and  
economically feasible.

c. Denial of the use of the facility, feature, func-  
tion, or capability by competitors is unreasonable.

d. The facility, feature, function, or capability will  
enable competition.

3. Degrade the quality of access or service pro-  
vided to another provider of communications services.

4. Fail to disclose in a timely manner, upon rea-  
sonable request and pursuant to a protective agree-  
ment concerning proprietary information, all  
information reasonably necessary for the design of  
network interface equipment, network interface ser-  
vices, or software that will meet the specifications of  
the local exchange carrier's local exchange network.

5. Unreasonably refuse or delay interconnections  
or provide inferior interconnections to another pro-  
vider.

6. Use basic exchange service rates, directly or  
indirectly, to subsidize or offset the costs of other  
products or services offered by the local exchange  
carrier.

7. Discriminate in favor of itself or an affiliate in  
the provision and pricing of, or extension of credit for,  
any telephone service.

95 Acts, ch 199, §11  
NEW section

#### 476.101 Local exchange competition.

1. A certificate of public convenience and neces-  
sity to provide local telephone service shall not be  
interpreted as conveying a monopoly, exclusive privi-  
lege, or franchise. A competitive local exchange ser-

provider shall not be subject to the requirements of  
this chapter, except that a competitive local ex-  
change service provider shall obtain a certificate of  
public convenience and necessity pursuant to section  
476.29, file tariffs, notify affected customers prior to  
any rate increase, file reports, information, and pay  
assessments pursuant to section 476.22, subsection 4,  
and sections 476.9, 476.10, 476.11, 476.12, and  
476.17, and shall be subject to the board's authority  
with respect to adequacy of service, interconnection,  
discontinuation of service, civil penalties, and com-  
plaints. If, after notice and opportunity for hearing,  
the board determines that a competitive local ex-  
change service provider possesses market power in  
its local exchange market or markets, the board may  
apply such other provisions of chapter 476 to a com-  
petitive local exchange service provider as it deems  
appropriate.

2. The duty of a local exchange carrier includes  
the duty, in accordance with requirements prescribed  
by the board pursuant to subsection 3 and other laws,  
to provide equal access to, and interconnection with,  
its facilities so that its network is fully interoperable  
with the telecommunications services and informa-  
tion services of other providers, and to offer un-  
bundled essential facilities.

3. A local exchange carrier shall provide reason-  
able access to ducts, conduits, rights-of-way, and  
other pathways owned or controlled by the local  
exchange carrier to which reasonable access is nec-  
essary to a competitive local exchange service pro-  
vider in order for a competitive local exchange service  
provider to provide service and is feasible for the local  
exchange carrier.

Upon application of a local exchange carrier or a  
competitive local exchange service provider, the  
board shall determine any matters concerning rea-  
sonable access to ducts, conduits, rights-of-way, and  
other pathways owned or controlled by the local  
exchange carrier upon which agreement cannot be  
reached, including but not limited to, matters re-  
garding valuation, space, and capacity restraints,  
and compensation for access.

4. a. Prior to September 1, 1995, the board shall  
initiate a rulemaking proceeding to adopt rules that  
satisfy the requirements enumerated in subpara-  
graphs (1) through (4). The rulemaking proceeding  
shall be completed as promptly as possible. The  
board, upon petition or on its own motion, may con-  
duct a separate evidentiary hearing on the same or  
related subjects. The evidence from a hearing may be  
considered by the board during the rulemaking pro-  
ceeding, provided that the board announces its in-  
tention to do so prior to the oral presentation in the  
rulemaking proceeding. The rules shall do the fol-  
lowing:

(1) Require a local exchange carrier to provide  
unbundled essential facilities of its network, and  
allow reasonable and nondiscriminatory equal access  
to, use of, and interconnection with, those unbundled  
essential facilities on reasonable, cost-based, and  
tariffed terms and conditions. The board's rules must

require a local exchange carrier, including those operating under a plan of price regulation, to file tariffs implementing the unbundled essential facilities within ninety days of the board's final order adopting such rules, except for local exchange carriers with less than seventy-five thousand access lines which must file such tariffs within two years of July 1, 1995. Such access, use, and interconnection shall be on terms and conditions no less favorable than those the local exchange carrier provides to itself and its affiliates for the provision of local exchange, access, and toll services. This subsection shall not be construed to establish a presumption as to the level of interconnection charges, if any, to be determined by the board pursuant to subparagraph (2).

(2) Establish reciprocal cost-based compensation for termination of telecommunications services between local exchange carriers and competitive local exchange service providers.

(3) Require local exchange carriers to make interim number portability available on request of a competitive local exchange service provider, and to implement provider number portability as soon as the availability of necessary technology makes provider number portability economically and technically feasible, as determined by the board. The rules shall also devise a reasonable and nondiscriminatory mechanism for the recovery of all recurring and nonrecurring costs of interim and provider number portability.

(4) Develop the cost methodology appropriate for a competitive telecommunications environment.

b. The rules adopted in paragraph "a", subparagraphs (2) and (3), do not apply to local exchange carriers with less than seventy-five thousand access lines until a competitive local exchange service provider has filed for a certificate to provide basic communications services in an exchange or exchanges of the local exchange carrier, or the board determines that competitive necessity requires the implementation of the rules in paragraph "a", subparagraphs (2) and (3), by the local exchange carrier.

5. Local exchange carriers shall file tariffs or price lists in accordance with board rules with respect to the services, features, functions, and capabilities offered to comply with board rules on unbundling of essential facilities and interconnection. Local exchange carriers shall submit with the tariffs or price lists for basic communications services and toll services supporting information that is sufficient for the board to determine the relationship between the proposed charges and the costs of providing such services, features, functions, or capabilities, including the imputed cost of intrastate access service rates in toll service rates pursuant to existing board orders. The board shall review the tariffs or price lists to ensure that the charges are cost-based and that the terms and conditions contained in the tariffs or price lists unbundle any essential facilities in accordance with the board's rules and any other applicable laws.

6. This section shall not be construed to prohibit the board from enforcing rules or orders entered in contested cases pending on July 1, 1995, to the extent that such rules and orders are consistent with the provisions of this section.

7. Except as provided under section 476.29, subsection 2, and this section, the board shall not impose or allow a local exchange carrier to impose restrictions on the resale of local exchange services, functions, or capabilities. The board may prohibit residential service from being resold as a different class of service.

8. Any person may file a written complaint with the board requesting the board to determine compliance by a local exchange carrier with the provisions of sections 476.96 through 476.100, 476.102, and this section, or any board rules implementing those sections. Upon the filing of such complaint, the board may promptly initiate a formal complaint proceeding and give notice of the proceeding and the opportunity for hearing. The formal complaint proceeding may be initiated at any time by the board on its own motion. The board shall render a decision in the proceeding within ninety days after the date the written complaint was filed.

95 Acts, ch 199, §12  
NEW section

#### UNIVERSAL SERVICE

##### 476.102 Universal service.

1. The board shall initiate a proceeding to preserve universal service such that it shall be maintained in a competitively neutral fashion. As a part of this proceeding, the board shall determine the difference between the cost of providing universal service and the prices determined to be appropriate for such service.

2. The board shall base policies for the preservation of universal service on the following principles:

a. A plan adopted by the board should ensure the continued viability of universal service by maintaining quality services at just and reasonable rates.

b. The plan should define the nature and extent of the service encompassed within any entities' universal service obligations.

c. The plan should establish specific and predictable mechanisms to provide competitively neutral support for universal service. Those mechanisms shall include a nondiscriminatory mechanism by which funds to support universal service shall be collected, and a mechanism for disbursement of support funds to eligible subscribers, either directly to those subscribers, or to the subscriber's provider of local exchange services chosen by the subscriber.

d. The plan should be based on other principles as the board determines are necessary and appropriate for the protection of the public interest, convenience, and necessity and consistent with the purposes of sections 476.95 through 476.101 and this section.

95 Acts, ch 199, §13  
NEW section

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##### 479.2 Defi

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95 Acts, ch 192, §6  
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CHAPTER 38  
LOCAL EXCHANGE COMPETITION

**199-38.1(476) General information.**

**38.1(1) Application and purpose of rules.** This chapter applies to local utilities. The purpose of these rules is to further the development of competition in the local exchange services market.

**38.1(2) Definitions.** For the administration and interpretation of this chapter, the following words and terms shall have the meaning indicated below, unless the context otherwise requires:

*"Bona fide request"* means a request to a local utility that demonstrates a good faith showing that the requesting party intends to purchase the services requested within six months of the date of the request.

*"Competitive local exchange service provider"* means any person that provides local exchange services, other than a local exchange carrier or a nonrate-regulated wireline provider of local exchange services under an authorized certificate of public convenience and necessity within a specific geographic area described in maps filed with and approved by the board as of September 30, 1992.

*"Interim number portability"* means one or more mechanisms, such as remote call forwarding or route indexing, by which a local exchange customer at a particular location may change the customer's local service provider without any change in the customer's telephone number, while experiencing as little loss of functionality as is feasible using available technology.

*"Local exchange carrier"* means any person that was the incumbent and historical rate-regulated wireline provider of local exchange services or any successor to such person that provides local exchange services under an authorized certificate of public convenience and necessity within a specific geographic area described in maps filed with and approved by the board as of September 30, 1992.

*"Local utility"* means any entity that provides wireline local exchange services, including local exchange carriers, competitive local exchange service providers, and other nonrate-regulated wireline providers of local exchange services.

*"Provider number portability"* means the capability of a local exchange customer to change the customer's local service provider at the customer's same location without any change in the customer's telephone number, while preserving the full range of functionality that the customer currently experiences. Provider number portability includes the equal availability of information concerning the local service provider serving a telephone number to all carriers and the ability to deliver traffic directly to that provider without having first to route traffic to the local exchange carrier or otherwise use the services, facilities, or capabilities of the local exchange carrier to complete the call and without the dialing of additional digits or access codes.

*"Total service long-run incremental cost"* for a service, or group of services, is equal to the utility's total cost of producing all of its services including the service or group

of services in question, minus the utility's total cost of producing all of its services excluding the service or group of services in question.

**199-38.2(476) Number portability.**

**38.2(1) *Interim number portability.***

*a. Requests.* Each local exchange carrier shall make interim number portability available upon bona fide request of a local utility. Once a local utility uses a local exchange carrier's interim number portability, it must, in turn, make interim number portability available upon approval of its tariff to all other local utilities upon bona fide request.

*b. Terms and conditions.* After interim number portability has been requested pursuant to paragraph "a," a local exchange carrier with no tariff to provide the service shall file a tariff, within 60 days of the request, making interim number portability available. The local exchange carrier's tariff will make interim number portability available to all local utilities on the same terms and conditions.

Each local utility using the local exchange carrier's interim number portability must file tariffs within 60 days of receiving the service. For telephone numbers initially routed to the local utility, the tariffs must make interim number portability available to all other local utilities on the same terms and conditions. A local utility's tariff for interim number portability will be presumed to be reasonable and nondiscriminatory if the terms and conditions are the same as those contained in the local exchange carrier's tariff for the same geographic area and the prices charged for interim number portability are not greater than those charged by the local exchange carrier. Otherwise, the tariff filing will require cost support information.

*c. Technical features.* Each local utility offering interim number portability shall make good faith efforts to ensure that the calls routed or forwarded to other local utilities meet industry standards and retain the technical characteristics and functionality of calls delivered to its own customers. Calls routed or forwarded to other local utilities shall experience as little loss of functionality as is feasible using available technology.

*d. Cost recovery mechanism.* To recover the costs of Interim number portability, a local exchange carrier must make a sufficient showing to justify inclusion of the interim number portability charge in its tariff. The amount of the charge may be adjusted to reflect the indirect benefits of interim number portability to all local service customers. The recovery of both recurring and nonrecurring costs of interim number portability must be in the form of a one-time charge to the requesting local utility for each customer retaining its number.

*e. Terminating access charges.* When an interim number portability arrangement is being used to route or forward a terminating intrastate long distance call to a customer's telephone number, the local utility routing or forwarding the call shall bill the interexchange carrier the access charge the local utility would bill if it provided local exchange service to the terminating number. The access charge revenue shall be divided as follows:

(1) The carrier common line charge shall flow through to the local utility that serves the customer; and



(2) The switching and transport charges shall be divided equally between the local utility that serves the customer and the local utility that routed or forwarded the call.

**38.2(2) Provider number portability.**

*a. Trials.* A local utility may petition the board at any time with a proposal to conduct a trial of a database architecture for provider number portability involving all local utilities in a local calling area. The petitioning local utility shall provide the board with information about the likely costs of conducting a trial, how and from whom these costs will be recovered, the proposed duration of the trial, and a complete description of what is intended to be learned from the trial, especially considering the trials already planned, underway, or complete in other areas of the country. The board will provide notice and an opportunity for a hearing to allow interested persons to provide information about the advisability of conducting a trial.

*b. Requests.* A local utility may petition the board at any time with a proposal that all local utilities in a local calling area implement a database architecture for provider number portability that would furnish equivalent service quality and equal feature characteristics to all carriers. The petitioning local utility shall supply the board with sufficient information to establish that the proposed database architecture for provider number portability is economically and technically feasible. In particular, the petitioning local utility shall show how calls could continue to be handled reliably, how call setup times would be affected, how much the proposed database architecture would cost to install and operate, who would install and operate the database, and how the costs of installing and operating the database would be recovered. The filing must contain a reasonable and nondiscriminatory mechanism for the recovery of all recurring and nonrecurring costs of provider number portability. The board will provide notice and an opportunity for a hearing to allow others to provide information as to whether the proposed database architecture is economically and technically feasible.

**199-38.3(476) Interconnection requirements.** A local utility that originates local telecommunications traffic and desires to terminate that traffic on the network of another local utility may choose the point(s) of interconnection between the two networks for the exchange of that originating local telecommunications traffic at any technically feasible point within the terminating carrier's network. Interconnection must be equal in quality to that provided by the local utility to itself, any affiliate, or any other party to which the local utility provides interconnection. Interconnection must be on rates, terms, and conditions that are just, reasonable, and nondiscriminatory.

**199-38.4(476) Unbundled facilities, services, features, functions, and capabilities.**

**38.4(1) Initial tariff filings.**

*a. Filing schedule.* Each local exchange carrier shall file initial tariffs implementing unbundling for the facilities enumerated in paragraph "b" within 90 days of the board's final order adopting these rules, except for local exchange carriers with fewer



than 75,000 access lines which must file initial unbundling tariffs on or before July 1, 1997.

*b. Initial list of unbundled essential facilities.* Each local exchange carrier's initial tariff filing shall, at a minimum, unbundle the following essential facilities, services, features, functions, and capabilities: loops, ports, signaling links, signal transfer points, facilities to interconnect unbundled links at the central office, interoffice transmission facilities, directory listings in white pages, directory listings in yellow pages, listings in the directory assistance database, inbound operator services including busy line verification and call interrupt, interconnection to the 911 system, and interconnection to the tandem switch for routing to other carriers.

**38.4(2)** *Subsequent requests for unbundled facilities.* Except as allowed in subrule 38.4(3), requests to unbundle facilities, services, features, functions, and capabilities shall be processed as follows:

*a.* Subsequent to the initial tariff filings provided for in subrule 38.4(1) above, a competitive local exchange service provider may make a bona fide request of a local exchange carrier to make additional unbundled essential facilities available. After receiving a request for additional unbundled essential facilities, the local exchange carrier shall respond within 30 days of the request by either agreeing to the request or by denying the request. If the local exchange carrier agrees to fulfill the request, it shall file a tariff unbundling the essential facility within 60 days of the initial request.

*b.* If the local exchange carrier denies the request, a competitive local exchange service provider may petition the board to classify the requested facility as essential, as defined by Iowa Code Supplement section 476.100(2), and to require the local exchange carrier to make it available on an unbundled basis by filing a tariff. In such a petition, the competitive local exchange provider shall provide information to the board showing how the requested facility meets the definition of essential facility found in Iowa Code Supplement section 476.100(2).

The petitioning party under this subrule may state a preference for proceeding by rule making or contested case, but the board will select the process to be used.

**38.4(3)** *Alternative procedures.* As an alternative to the procedures in subrule 38.4(2), a competitive local exchange service provider may elect the negotiation, mediation, and arbitration procedures available under 47 U.S.C. Section 252, by notifying the local exchange carrier and the board in writing at the time additional unbundled facilities are requested.

**38.4(4)** *Reclassifying essential facilities.* A local exchange carrier may at any time, petition the board with a request that a facility classified as essential, either by the terms of subrule 38.4(1) or pursuant to a subsequent request of a competitive local exchange service provider, be removed from that classification and no longer be required to be provided on an unbundled basis. With its petition, the local exchange carrier shall provide information to the board showing why the facility no longer meets the definition of essential found in Iowa Code Supplement section 476.100(2). The board will determine the procedure to be used in reviewing the petition.

**38.4(5)** *Interconnection to essential facilities.*

*a. Nondiscriminatory access.* All competitive local exchange service providers shall have access to a local exchange carrier's unbundled facilities on the same